

1 ORRICK, HERRINGTON & SUTCLIFFE LLP
2 KAREN G. JOHNSON-MCKEWAN (SBN 121570)
kjohnson-mckewan@orrick.com
3 ANNETTE L. HURST (SBN 148738)
ahurst@orrick.com
4 GABRIEL M. RAMSEY (SBN 209218)
gramsey@orrick.com
5 405 Howard Street, San Francisco, CA 94105
Tel: 1.415.773.5700 / Fax: 1.415.773.5759
6 PETER A. BICKS (*pro hac vice*)
pbicks@orrick.com
7 LISA T. SIMPSON (*pro hac vice*)
lsimpson@orrick.com
8 51 West 52nd Street, New York, NY 10019
Tel: 1.212.506.5000 / Fax: 1.212.506.5151
9 BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (*pro hac vice*)
10 dboies@bsfllp.com
333 Main Street, Armonk, NY 10504
11 Tel: 1.914.749.8200 / Fax: 1.914.749.8300
STEVEN C. HOLTZMAN (SBN 144177)
12 sholtzman@bsfllp.com
1999 Harrison St., Ste. 900, Oakland, CA 94612
Tel: 1.510.874.1000 / Fax: 1.510.874.1460
13 ORACLE CORPORATION
DORIAN DALEY (SBN 129049)
dorian.daley@oracle.com
15 DEBORAH K. MILLER (SBN 95527)
deborah.miller@oracle.com
16 MATTHEW M. SARBORARIA (SBN 211600)
matthew.sarboraria@oracle.com
17 RUCHIKA AGRAWAL (SBN 246058)
ruchika.agrawal@oracle.com
18 500 Oracle Parkway,
Redwood City, CA 94065
19 Tel: 650.506.5200 / Fax: 650.506.7117
20 *Attorneys for Plaintiff*
ORACLE AMERICA, INC.

21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
23 SAN FRANCISCO DIVISION

24 ORACLE AMERICA, INC.
25 v. Plaintiff,
26 GOOGLE INC. Defendant.

Case No. CV 10-03561 WHA
**DECL. OF ANDREW D. SILVERMAN IN
SUPPORT OF ORACLE'S MOTIONS IN
LIMINE PER ECF NO. 1488**
Hearing: April 27, 2016, 8:00 a.m.
Dept.: Courtroom 8, 19th Floor
Judge: Honorable William H. Alsup

1 I, Andrew D. Silverman, declare and state as follows:

2 1. I am a member of the bars of the States of California, New York, and the District
 3 of Columbia, admitted to practice before this Court, and an associate with the law firm of Orrick,
 4 Herrington & Sutcliffe LLP (“Orrick”), attorneys of record for plaintiff Oracle America, Inc.
 5 (“Oracle”). I am familiar with the events, pleadings and discovery in this action and, if called
 6 upon as a witness, I could and would testify competently to the matters stated herein of my own
 7 personal knowledge.

8 2. I submit this declaration in support of Oracle’s motions *in limine* (including
 9 *Daubert* motions and motions to strike expert opinions), submitted pursuant to the Court’s Order,
 10 ECF No. 1488.

11 3. Attached hereto as Exhibit 1 is a true and correct copy of the First Expert Report
 12 of Dr. Owen Astrachan and corresponding exhibits, dated January 8, 2016, which is filed
 13 tentatively under seal pursuant to the protective order.

14 4. Attached hereto as Exhibit 2 is a true and correct copy of the Second Expert
 15 Report of Dr. Owen Astrachan and corresponding exhibits, dated February 8, 2016, which is filed
 16 tentatively under seal pursuant to the protective order.

17 5. Attached hereto as Exhibit 3 is a true and correct copy of the Third Expert Report
 18 of Dr. Owen Astrachan and corresponding exhibits, dated February 29, 2016, which is filed
 19 tentatively under seal pursuant to the protective order.

20 6. Attached hereto as Exhibit 4 is a true and correct copy of the First Expert Report
 21 of Dr. Gregory Leonard (Corrected) and corresponding exhibits, dated March 10, 2016, which is
 22 filed tentatively under seal pursuant to the protective order.

23 7. Attached hereto as Exhibit 5 is a true and correct copy of the Second Expert
 24 Report of Dr. Gregory Leonard and corresponding exhibits, dated February 29, 2016, which is
 25 filed tentatively under seal pursuant to the protective order.

26 8. Attached hereto as Exhibit 6 is a true and correct copy of the First Expert Report
 27 of Andrew Hall, dated January 8, 2016.

28 9. Attached hereto as Exhibit 7 is a true and correct copy of the Second Expert

1 Report of Andrew Hall, dated February 8, 2016, which is filed tentatively under seal pursuant to
2 the protective order.

3 10. Attached hereto as Exhibit 8 is a true and correct copy of the Third Expert Report
4 of Andrew Hall, dated February 29, 2016.

5 11. Attached hereto as Exhibit 9 is a true and correct copy of the Expert Report of Dr.
6 Itamar Simonson and corresponding exhibits with Exhibits D and I thereto filed manually, which
7 is filed tentatively under seal pursuant to the protective order.

8 12. Attached hereto as Exhibit 10 is a true and correct copy of the relevant excerpts of
9 the Second Expert Report of Dr. Adam Jaffe, dated February 29, 2016, which is filed tentatively
10 under seal pursuant to the protective order which is filed tentatively under seal pursuant to the
11 protective order.

12 13. Attached hereto as Exhibit 11 is a true and correct copy of the relevant excerpts of
13 the Expert Report of Dr. Olivier Toubia, which is filed tentatively under seal pursuant to the
14 protective order.

15 14. Attached hereto as Exhibit 12 is a true and correct copy of the relevant excerpts of
16 the Google presentation titled “Project Android Software Overview” at Bates number GOOGLE-
17 03-00147537 at page 03-00147540, which is filed tentatively under seal pursuant to the protective
18 order.

19 15. Attached hereto as Exhibit 13 is a true and correct copy of an email from Cedric
20 Beust to David Turner, dated November 13, 2007, and marked with the Bates range GOOGLE-
21 01-00025477-478, which is filed tentatively under seal pursuant to the protective order.

22 16. Attached hereto as Exhibit 14 is a true and correct copy of the relevant excerpts of
23 the Deposition of Brian Swetland, dated July 7, 2011, which is filed tentatively under seal
24 pursuant to the protective order.

25 17. Attached hereto as Exhibit 15 is a true and correct copy of an email from Andy
26 Rubin to “EMG,” dated May 7, 2007, and marked with Bates number GOOGLE-26-00005730,
27 which is filed tentatively under seal pursuant to the protective order.

28

1 18. Attached hereto as Exhibit 16 is a true and correct copy of an email from Bob Lee
 2 to Andy Rubin, dated August 12, 2007, and marked with the Bates range GOOGLE-01-
 3 00028498-499, which is filed tentatively under seal pursuant to the protective order.

4 19. Attached hereto as Exhibit 17 is a true and correct copy of an email from Joshua
 5 Bloch to Jesse Wilson, dated December 7, 2009, and previously marked as Exhibit 215 to the
 6 Deposition of Joshua Bloch, which is filed tentatively under seal pursuant to the protective order.

7 20. Attached hereto as Exhibit 18 is a true and correct copy of the relevant excerpts of
 8 the Deposition of Joshua Bloch, dated July 8, 2011, which is filed tentatively under seal pursuant
 9 to the protective order.

10 21. Attached hereto as Exhibit 19 is a true and correct copy of an undated Google
 11 Presentation titled “Project Android,” marked with Bates range GOOGLE-01-00066237-6245,
 12 which is filed tentatively under seal pursuant to the protective order.

13 22. Attached hereto as Exhibit 20 is a true and correct copy of Google’s Second
 14 Supplemental Response and Objection to Plaintiff’s Interrogatory No. 37, dated November 12,
 15 2015, which is filed tentatively under seal pursuant to the protective order.

16 23. Attached hereto as Exhibit 21 is Google’s First Supplemental Responses and
 17 Objections to Plaintiffs Interrogatories 38-40, 42, dated December 16, 2015, which is filed
 18 tentatively under seal pursuant to the protective order.

19 24. Attached hereto as Exhibit 22 is a true and correct copy of the relevant excerpts of
 20 the Deposition of Andrew Hall, dated March 4, 2016, which is filed tentatively under seal
 21 pursuant to the protective order.

22 25. Attached hereto as Exhibit 23 is a true and correct copy of the relevant excerpts of
 23 the deposition transcript of Donald Smith, dated November 20, 2015.

24 26. Attached hereto as Exhibit 24 is a true and correct copy of the relevant excerpts of
 25 the second deposition transcript of Dr. Owen Astrachan, dated March 14, 2016.

26 27. Attached hereto as Exhibit 25 is a true and correct copy of the relevant excerpts of
 27 the 30(b)(6) deposition transcript of Engineering Director for Android Anwar Ghuloum, dated
 28 December 9, 2015, which is filed tentatively under seal pursuant to the protective order.

28. Attached hereto as Exhibit 26 is a true and correct copy of the relevant excerpts of the deposition transcript of Dr. Simonson, dated March 8, 2016.

29. Attached hereto as Exhibit 27 is a true and correct copy of the relevant excerpts of the deposition transcript of Dr. Toubia, dated March 10, 2016.

30. Attached hereto as Exhibit 28 is a true and correct copy of an email exchange between Dr. Leonard, his staff, and Dr. Kim, marked with the Bates range LEONARD0000002-6.

31. Attached hereto as Exhibit 29 is a true and correct copy of the relevant excerpts of the First Expert Report of Dr. Alan Cox, dated October 3, 2011, which is filed tentatively under seal subject to the protective order.

32. Attached hereto as Exhibit 30 is a true and correct copy of the relevant excerpts of the deposition transcript of Dr. James Malackowski, dated March 17, 2016, which is filed tentatively under seal pursuant to the protective order.

33. Attached hereto as Exhibit 31 is a true and correct copy of the relevant excerpts of the deposition transcript of Dr. Gregory Leonard, dated March 11, 2016, which is filed tentatively under seal pursuant to the protective order.

I declare under penalty of perjury under the laws of the United States the foregoing is true and correct.

Executed this 23rd day of March, 2016, at New York, NY.

/s/ Andrew D. Silverman

Andrew D. Silverman